IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3524 OF 2005
IN
CRIMINAL WRIT PETITION NO. 1458 OF 2002

Yogesh N.Joshi. ..Applicant

V/s.

The State of Maharashtra & Ors. ..Respondents.

Mr.Subhash Jha i/b M/s Law Global for applicant.

Mrs. M.M.Deshmukh, APP for State.

CORAM: A.M.KHANWILKAR,J

DATE : NOVEMBER 17, 2005.

P.C. :

1. Having perused the cause made out in the application, in my opinion, this is not a case of showing indulgence to the applicant in as much as the application for restoration of main petition is filed almost after two years and 3 months. No reason is mentioned as to what prevented the advocate on record to take out such application after expiry of specified period under order dated 31st January, 2003. The only reason stated in the application is that the applicant came to know about the dismissal of the petition on 2nd May, 2005, when the police personally visited his residence and informed his wife that warrant has been issued by the trial court.

Thereafter, the applicant contacted his advocate to ascertain the status and has then filed the present application in June, 2005. There is absolutely no cause forthcoming as to what prevented the advocate on record to take necessary steps to remove the office objection within the specified time, in any case, to move such application after expiry of such specified time and to get time extended from this court. It is only when the applicant contacted the advocate on record, it appears that the office of the advocate on record got activated and has filed the present application.

2. View in this perspective, it cannot be said to be sufficient cause. However, the litigant should not suffer for the mistake of advocate. Hence the application is allowed in terms of prayer clause (a) and (b).

3. Application is allowed by condoning delay in taking out the present application and modifying the order dated 31st January, 2003 by requiring the applicant to remove office objection within two weeks from today, failing which conditional order of dismissal of the petition without further reference to the court will get activated. This indulgence is

however, shown on advocate on record for the applicant paying costs quantified at Rs.5,000/- to the High Court Legal Services Committee within one week from today.